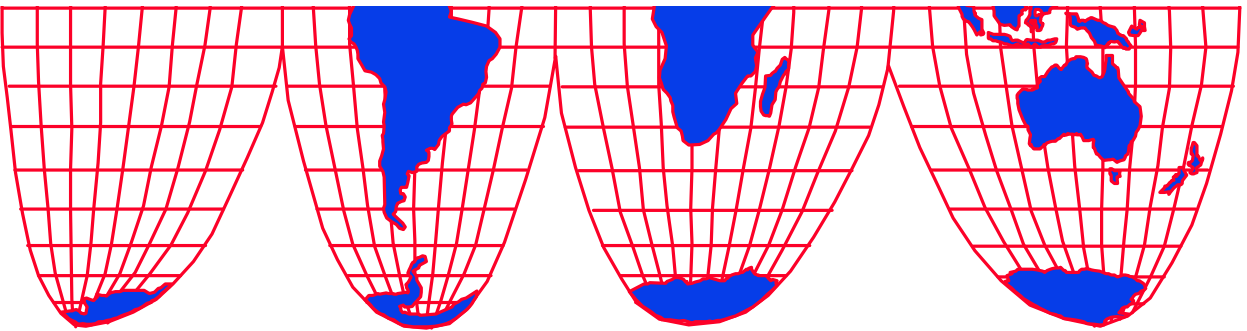


# Textile Transshipment Report



Department of the Treasury  
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## TABLE OF CONTENTS

	PAGES
I. EXECUTIVE SUMMARY . . . . .	Page 2
II. INTRODUCTION . . . . .	Page 4
III. GOAL . . . . .	Page 8
IV. THE STRATEGY . . . . .	Page 9
V. ACTIONS AND RESULTS . . . . .	Page 11
A. TEXTILE TRANSSHIPMENT TEAM . . . . .	Page 11
B. TEXTILE CLEARINGHOUSE . . . . .	Page 12
C. HONG KONG AND MACAU INITIATIVES . . . . .	Page 15
D. PARTNERSHIP WITH INDUSTRY . . . . .	Page 18
E. INTERNAL CONTROL ASSESSMENTS . . . . .	Page 19
F. PRODUCTION VERIFICATION TEAM VISITS . . . . .	Page 21
G. PORT OF ENTRY ACTIVITY . . . . .	Page 22
H. OFFICE OF INVESTIGATIONS . . . . .	Page 23
I. LINKS WITH INTELLIGENCE COMMUNITIES . . . . .	Page 25
J. 592A LIST OF FOREIGN ENTITIES . . . . .	Page 26
K. BOND SUFFICIENCY . . . . .	Page 27
L. ELVIS . . . . .	Page 28
M. TRANSSHIPMENT TRAINING . . . . .	Page 29

## I. EXECUTIVE SUMMARY

- ▶ More than \$54.3 billion of textiles and textile products were imported from more than 180 countries, territories and insular possessions into the United States in 1997.
- ▶ The United States has sought to control the imports of these products by establishing bilateral agreements under the Arrangements Regarding International Trade in Textiles (commonly referred to as Multifiber Arrangements or MFA).
- ▶ Currently there are quota restrictions for 47 countries. The total textile imports from these countries in 1997 was \$39.3 billion.
- ▶ Customs concern is illegal transshipment which occurs when there is a false declaration on imported merchandise as to country of origin.
- ▶ The goal for the United States Customs Service with regard to illegal transshipment of textiles and textile products is to ensure that goods which have been illegally transshipped to circumvent quota and admissibility requirements do not enter the United States.
- ▶ A national strategy for FY 1998 has been developed which outlines specific actions and initiatives to ensure this goal is accomplished in an integrated, coordinated, and proactive manner.
- ▶ A number of actions have been instituted including:

Establishing a national, multi-discipline Textile Transshipment Team, which is responsible for ensuring a coordinated effort to identify and solve the transshipment problem.

Establishing a Textile Clearinghouse, which serves as the national Customs Center for all textile data analysis, research and information.

Initiating a series of actions aimed at reducing the risk of illegal textile transshipment through Hong Kong and Macau. Results have included publication of names of Hong Kong factories convicted of transshipment and detention of over \$100 million worth of goods at the

ports of entry.

Working in partnership with domestic industry and the international trade community to secure their cooperation in and support for Customs efforts.

Establishing an Internal Control Program for prevention of transshipment in which the Office of Regulatory Audit assesses internal systems used by importers to ensure correct origin of imported merchandise.

Sending Textile Production Verification Teams (TPVT's) to 11 countries and one insular possession. Results included identification of \$52.6 million worth of transshipped goods and \$12.6 million in counterfeit visas.

Publishing the names of foreign entities who have been issued penalties under 19 U.S.C. 1592. There has been a significant reduction in import activity from those entities.

Conducting transshipment training in 9 foreign countries and for 13 U.S. Customs ports of entry.

## II. INTRODUCTION

The United States imported more than \$54.3 billion of textiles and textile products for consumption during calendar year 1997.<sup>1</sup> Imports have been documented as originating from more than 180 countries, territories, and insular possessions.

Arrangements Regarding International Trade in Textiles, commonly referred to as Multifiber Arrangements (MFA), regulate trade in textiles and textile products among many countries. Approximately \$48.4 billion of the textiles and textile products imported during calendar year 1997 were subject to MFA.<sup>2</sup> The United States Government has sought to control the importation of this merchandise by establishing bilateral textile agreements under MFA. Currently 47 countries have quota restraint levels on some portion of their trade with the United States in textiles and textile products. The total textile trade from these countries in 1997 was \$39.3 billion.<sup>3</sup>

Bahrain	Bangladesh	Brazil
Bulgaria	China	Colombia
Costa Rica	Czech Republic	Dominican Republic
Egypt	El Salvador	Fiji
Guatemala	Haiti	Hong Kong
Honduras	Hungary	India
Indonesia	Jamaica	Kenya
Korea	Kuwait	Laos
Macau	Macedonia	Malaysia
Mauritius	Mexico	Myanmar
Nepal	Oman	Pakistan
Philippines	Poland	Qatar

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<sup>1</sup>Total value of any goods classifiable in Chapters 50 through 63, Harmonized Tariff Schedule of the United States (HTSUS), and goods classifiable under one of the following HTSUS headings or subheadings: 3005.90, 3921.12.15, 3921.13.15, 3921.90.2550, 4202.12.40-80, 4202.22.40-80, 4202.32.40-95, 4202.92.15-30, 4202.92.60-90, 6405.20.60, 6406.10.77, 6406.10.90, 6406.99.15, 6501, 6502, 6503, 6504, 6505.90, 6601.10-99, 7019.10.15, 7019.10.28, 7019.20, 8708.21, 8804, 9113.90.40, 9404.90.10, 9404.90.80-95, 9502.91, 9612.10.9010.

<sup>2</sup>The total value of all textile and textile products covered by category numbers for cotton, wool, man-made fibers, and silk and vegetable fiber blends from all countries, plus silk and silk apparel from China.

<sup>3</sup>Total value of all textiles and textile products including those outside of Chapters 50-63, for the 47 countries listed.

Romania	Russia	Singapore
Slovak Republic	Sri Lanka	Taiwan
Thailand	Turkey	United Arab Emirates
Ukraine	Uruguay	(U.A.E.)

The Committee for the Implementation of Textile Agreements (CITA) was established in 1972 by Executive Order 11651 (7 U.S.C. 1854 Note) to supervise the implementation of all textile trade agreements. That Executive Order also authorized the Chairman of CITA to take or recommend actions, as may be necessary, to implement such agreements. The textile trade agreements are negotiated by a team led by the U.S. Trade Representative (USTR). The United States Customs Service (Customs), in accordance with Executive Order 12475 (7 U.S.C. 1854 Note) and the policy guidance provided by CITA, has been an active participant in monitoring and enforcing the Textile Import Program. Customs has also served as a technical advisor to CITA and USTR.

Over the years, Customs has approached enforcement of these agreements using a variety of methods. These include, but are not limited to: using multi-disciplinary, in-country TEXTILE production verification teams to verify and investigate specific allegations of quota/visa evasion; automating quota transactions; examining shipments and their corresponding documents; analyzing data to target illegal transshipment; sampling for laboratory analysis; and conducting domestic as well as foreign investigations.

Transshipment as commonly used in international trade is a normal business arrangement, which consists of goods passing through a second country, port or territory. Transshipment can be legal or illegal. Customs concern is illegal transshipment, which occurs when there is a false declaration on imported merchandise as to country of origin.

**The term "transshipment" in this report refers to illegal transshipment as used in the Customs sense.**

Quota restraints limit access to the world's largest consumer markets for textiles and textile products, including the United States. Transshipment has become an economically viable solution in those countries where factories can and do produce more than they can legally ship to these markets because of quantity restraints. Transshipment is a difficult problem to attack because Customs is trying to prove an economic crime in a foreign country where there are efforts to keep factories open and generate income through exports, despite quota restraints.

Transshipment is of particular concern to the domestic textile industry. The following six paragraphs represent the industry view as

expressed by the American Textile Manufacturers Institute (ATMI) on January 26, 1998:

- ▶ Efforts by Customs to detect and interdict transshipped textiles and textile products are essential to the economic well-being of the American textile industry and its 604,000 textile mill workers and 806,000 apparel <sup>4</sup>workers as they prepare for the complete abolition of quantitative restraints on imports on January 1, 2005. While the industry is fully engaged in learning to operate in a global environment, the transition to quota-free trade will not be easy. The potential for illegally transshipped goods during this transition is an added problem that the industry and its workers do not want to contend with.
- ▶ It is obvious that transshipment negatively impacts a variety of innocent parties.
- ▶ The access of legitimate importers to foreign merchandise is diminished when charges against a quota are made for transshipped goods.
- ▶ The access of legitimate exporters to the U.S. market is reduced when quotas are cut across the board for transshipments.
- ▶ Most seriously affected are American workers by virtue of the fact that the transshipped merchandise could diminish the potential market for domestically manufactured products.
- ▶ Based on apparel import penetration of about 60 percent, a reasonable estimate of actual U.S. industry job displacement is 40,000 jobs per \$1 billion of transshipment.

Since 1990 the U.S. Customs Service has performed production verifications to identify instances of transshipment in 75 different countries, territories, and insular possessions. Charges to the quota restraint levels have been corrected to reflect the true country of origin for textiles and textile products valued at more than \$736.8 million.

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<sup>4</sup>The figure for apparel workers was obtained from DNR and published in August 1997.

Assertions and allegations continue to surface indicating that transshipment and falsification of origin of textiles are occurring on a global basis. In 1997, Customs has focused its efforts on textile and textile products transshipment involving the Peoples Republic of China, through Hong Kong, Macau, and other countries.

While realizing many successes in addressing the transshipment problem, Customs has recognized that many of its traditional methods and activities needed to be reassessed and realigned. Consequently, Customs has developed and implemented new approaches to solving the problem, including establishing stronger links with domestic industry and other government agencies. With the Customs reorganization in FY 1996, the textile industry was identified as a primary focus industry and a multi-disciplinary approach to addressing compliance issues with that industry, with an emphasis on transshipment, was established.

All Customs offices are involved. The Offices of Strategic Trade, Field Operations and Investigations are the three key offices responsible for Customs transshipment enforcement efforts. The Office of Strategic Trade has devoted all its available tools, such as analysis, compliance measurement, interventions, problem solving initiatives, and audit to this effort. The Office of Field Operations has devoted approximately one third of its import specialist workforce to textile imports. The Office of Investigations has applied innovative approaches in the application of criminal investigation techniques to textile transshipment, including intransit and inbond violations.



### III. GOAL

In June 1997, the Commissioner and Deputy Commissioner of Customs sponsored a Textile Transshipment Problem Solving Session. Participants included key managers from the Offices of Chief Counsel, Field Operations, Investigations (including Customs Attaches), Regulations and Rulings, International Affairs, and Strategic Trade. In addition, presentations were made by representatives from the Office of the United States Trade Representative and the Department of Commerce, Office of Textiles and Apparel.

At that session, the overall goal for the Customs Service with regard to transshipment was clearly defined as ensuring that goods, which have been illegally transshipped to circumvent quota restrictions and admissibility requirements, do not enter the commerce of the United States. This goal clearly impacts the U.S. ports of entry. When there is a question as to the country of origin, Customs officers have to obtain more information regarding the origin of the goods and exclude merchandise for which the satisfactory level of proof is not available.

There are also implications for foreign governments and their self-policing efforts. Working with foreign governments to establish a strong enforcement posture with regard to illegal textile transshipment is a major focus for Customs. If countries can stop textiles and textile products from being illegally transshipped through their borders, or ensure that goods have the correct country of origin marking before exportation to the United States, then a major impact can be made. In addition, the use of the Electronic Visa Information System (ELVIS), the comparison of foreign country export data to U.S. import data, unannounced factory visits, analyses of over-shipments help to support the goal by reducing instances where counterfeit documents could be used to transship textiles and textile products illegally.

#### IV. THE STRATEGY

Customs has developed a national strategy to ensure that efforts to prevent illegally transshipped merchandise from being entered into the commerce of the United States are carried out in an integrated, coordinated, uniform and effective manner. The strategy builds upon successful techniques which have been used in the past to address transshipment. It also includes new, proactive approaches and measures which will enable Customs to identify potential transshipment threats and be more aggressive and successful in addressing these areas before they become major problems.

The major components of the strategy include:

- ▶ Establishing a national Textile Transshipment Team responsible for ensuring a coordinated effort to identify and address the transshipment problem.
- ▶ Establishing a Textile Clearinghouse at the New York Strategic Trade Center, which serves as the national Customs Center for all textile data analysis, research and information.
- ▶ Initiating investigations of egregious textile violators to deter illegal importations of textiles and textile products.
- ▶ Obtaining information and documentation from various foreign governments on their internal convictions, penalties and investigations on textile transshipment. This information is used by Customs in a variety of ways, including public notification, informed compliance efforts and enforcement actions.
- ▶ Working to establish partnerships with countries to develop self-policing programs and to encourage them to meet their commitments under these programs.
- ▶ Working with U.S. Government representatives, including CITA and USTR, to share information, assist in targeting and encourage continued and regularly scheduled follow-up reports.
- ▶ Establishing partnerships with both domestic industry and the international trade community to maximize compliance with import requirements for textiles and textile products and secure their full cooperation in and support for Customs

efforts. This has included the development of a toolkit of "best practices" for textile importers.

## **V. ACTIONS AND RESULTS**

The textile industry is enormous both in terms of importations and domestic consumption. The issue of textile origin has been the linchpin of each bilateral agreement between the United States and its foreign counterparts. Improving compliance in an industry this large will have significant impact on raising the overall import compliance level and support the underpinnings of the bilateral agreements.

As described below, the Customs Service has instituted a series of actions to address transshipment:

### **A. TEXTILE TRANSSHIPMENT TEAM**

The national Textile Transshipment Team was created to coordinate U.S. Customs efforts to enforce the bilateral textile agreements and identify and attack transshipment. Members of this team reflect key disciplines with responsibility and accountability in achieving Customs goals with regard to textile transshipment. It is composed of representatives from the Offices of Strategic Trade, Field Operations, Investigations, and Chief Counsel. This team reports directly to the Commissioner and maintains ties to the Office of the U.S. Trade Representative, CITA and representatives from domestic industry and the importing community.

The following are some of the actions and initiatives in which the Team has been involved during 1997:

- ▶ Developing the Customs Textile Transshipment Strategy for FY 1998, which outlines specific actions and initiatives to address illegal textile transshipment.
- ▶ Raising the bond requirements for textile importers to 2 percent of the value of their textile imports, up to a 5 percent ceiling for those importers dealing with exporters identified as high risk for textile transshipment.
- ▶ Extending the automatic liquidation of entry summaries from 90 days to 10-1/2 months to ensure Customs has sufficient time to address admissibility issues.
- ▶ Working with representatives from the governments of Hong Kong and Macau to ensure optimum cooperation with regard to information sharing and self-policing of potential illegal textile transshipment.

- ▶ Establishing a process to ensure that the names of factories in Hong Kong which have been convicted by the Hong Kong courts, and the names of factories in Macau which have been assessed penalties by the Macau government, are published by U.S. Customs as having been involved in illegal textile transshipment. In 1997, the names of 30 Hong Kong factories and 14 Macau factories were published.
- ▶ Participating as technical advisors to the Chief Textile Negotiator for the negotiation of the bilateral textile agreement with the Peoples Republic of China.
- ▶ Participating as technical advisors in consultations with the governments of Macau, Cambodia, the Philippines, Pakistan, Canada, Indonesia and the European Union.
- ▶ Making presentations to various importing associations (e.g., United States Association of Importers of Textiles and Apparel, National Retail Federation) regarding updates on Customs efforts involving transshipment.

## **B. TEXTILE CLEARINGHOUSE**

The Textile Clearinghouse is located in the New York Strategic Trade Center (STC). The Clearinghouse is designed to integrate the expertise, products and results of activities of all Customs disciplines regarding textiles and textile products.

The New York STC is in a unique position to serve as this national center. It has responsibility for textiles as a primary focus industry. It is collocated with two major textile ports of entry, an airport and a seaport; a major Special Agent-in-Charge Office with experience in textile investigations and a significant Area Intelligence Unit; and the National Commodity Specialist Division, which is a critical link for the Office of Regulations and Rulings for textile issues.

Because the Clearinghouse is the national Customs textile center, it receives, analyzes and links information from a wide variety of internal and external sources, including data from the Customs Automated Commercial System (ACS), port information, Textile Production Verification Team (TPVT) results, Compliance Assessment and other Regulatory Audit reviews, current and emerging industry trends, and other government agency information. All of this information is used to identify the scope and evaluate the significance of textile issues and provide analytical support for national and port

initiatives.

The Clearinghouse serves a wide range of internal and external customers with an array of products and services. Internal customers range from port personnel, to Customs Attaches, to Headquarters executives. External customers include other government agencies, trade and industry representatives, and Congressional interests.

Analytical support involves the presentation of strategically focused products which identify significant import trends and changes which may warrant national action or support policy decisions and negotiations between governments. More detailed, tactical support is provided to Headquarters and the field, and includes manufacturer targets for TPVT'S, analysis in response to port requests in support of transaction and account level processing, and country analysis for Customs Attaches.

Analyses and products of the Clearinghouse during the past year include:

- ▶ Analysis of import activity from Hong Kong and Macau to: (1) link imports from convicted and suspected transshippers by category, importer and port; (2) provide category and manufacturer level analysis/targets for in-country verification visits; (3) identify significant increases, decrease or other import trends and, (4) support negotiations regarding the two countries' efforts to address transshipment problem.
- ▶ An analysis of textile imports from countries, identified as high risk, to support the Textile Transshipment Team in formulating FY 98 national textile transshipment plan and in selecting FY 98 targets for TPVT's.
- ▶ Detailed country analyses, with category and manufacturer targets, in support of TPVT visits to countries such as Hong Kong, Macau, and Jamaica. The results of these in-country visits are analyzed to monitor and assess activity of confirmed/suspected transshippers.
- ▶ Monitoring and analyzing the activity of the foreign entities published in the 592a List in the Federal Register as having violated 19 U.S.C. 1592.
- ▶ Country specific analytical support for Customs role as technical advisor in bilateral negotiations with the Peoples

Republic of China, and in consultations with Macau, Cambodia, and the Philippines.

- ▶ A visit by two International Trade Specialists to Hong Kong in December 1996 to discuss textile data and trends in view of the Hong Kong initiative. As a result, during 1997 the Clearinghouse has been involved in a data exchange and reconciliation program with the Hong Kong Trade Department. The project goal is to foster trade data exchange and share analytical approaches and techniques. Key members of the Hong Kong team visited the New York STC in December 1997 to learn about the Clearinghouse and to refine potential projects for this program.

In addition to analytical support, the Clearinghouse maintains information, data and reports from a wide variety of external and internal sources, including compliance assessment and other audit reports, importer and country profiles, trade and industry publications, information from academic institutions and other government agencies. In short, the Clearinghouse has provided "one stop shopping" for all Customs offices as it relates to textile industry issues.

The establishment of the Textile Clearinghouse resulted in the development of a single, uniform, and consistent approach in the acquisition, manipulation and analysis of data. The Customs Automated Commercial System was identified as the primary data source. An extensive textile database was established by the Clearinghouse and includes all entry summary line data from 1995 to present. Using a single, systematic analytical approach and standardizing the type of data to be analyzed ensures consistency in data collection and analysis and establishes accurate and consistent baselines for comparison.

The most frequently used analytical approach is to start from a broad perspective and work toward finer focused targets and issues. Beginning at the country level, textile import trends within specific countries are analyzed to identify significant increases, surges or shifts in imports. This leads to a more detailed level analysis of activity by country, category, manufacturer, value, volume or time period to identify significant shifts, unusual patterns, or anomalies. **The goal of this approach is not just to identify significant changes, but also to determine the relevance of those changes in relation to the total trade within a country and the relationship to or impact on global activity or trading patterns.**

### **C. HONG KONG AND MACAU INITIATIVES**

In response to the continued allegations from the domestic industry, the importing community and other government agencies that much of the textile and wearing apparel exported from Hong Kong is illegally transshipped, U.S. Customs hosted a textile transshipment conference in Washington, D.C., in April 1996. As a result of this conference, a series of actions was implemented which were aimed at reducing the risk of illegal textile transshipment from the Peoples Republic of China through Hong Kong and Macau. These are described in detail under the Hong Kong Initiative and Macau Initiatives sections of this report. While these actions began late in 1996, the greatest impact was achieved in 1997.

#### **HONG KONG INITIATIVE**

On June 17, 1996, because of the inability to verify the origin of the textiles, U.S. Customs established single entry bond requirements and additional documentation requirements (an original signature from Hong Kong manufacturers on textile declaration and certification by importer declaring the accuracy of the textile declaration) on 10 textile categories (351 - nightwear, 352/652 - underwear, 336/636 - dresses, 342/442/642 - skirts, and 443/643 - suits).

On June 24, 1996, CITA authorized Customs, consistent with 19 CFR 12.130(g) to deny entry of textile and textile products when the country declared to be the country of origin does not permit Customs to conduct an on-site verification of production of textiles and textile products.

On July 2-3, 1996, a meeting was held in Washington, D.C. with the U.S. Customs Deputy Commissioner and both Customs and Trade Department officials from Hong Kong to discuss the problem. In arguing against the additional entry requirements, the officials from Hong Kong explained their systems for combating illegal transshipment, including a newly established program called the Production Notification System (PNS), and reiterated their determination to intensify their efforts. The PNS program is designed to require manufacturers to notify the Hong Kong Trade Department of the commencement of garment production to enable real time verification of production. Anytime during this manufacturing process, the factory may be visited by Hong Kong Customs and Excise to verify production. Hong Kong Customs and Excise, under the Consignment and Factory Inspection System (CFI), conducts inspections on factory basis, and if necessary, puts factories where indications of transshipment are uncovered under the Factory Audit Check (FAC). Under the FAC, factory operations are reviewed over an



extended period of time to ensure that transshipment has not involved other previous exports.

The issue of U.S. Customs verification team visits was a major topic of discussion and debate. (Hong Kong Customs and Excise has refused to agree to any typical production verification team visits [one which has access to the corporate books and records] to Hong Kong factories to verify production.) On August 15, 1996, after a number of informal meetings, the U.S. Customs Commissioner accepted the Hong Kong Customs Commissioner's invitation to allow U.S. Customs officers to act as observers in the foreign manufacturing facilities to evaluate the effectiveness of the new PNS, CFI and FAC Systems.

In, Hong Kong Customs and Excise conducted 2,248 factory visits under the CFI. One hundred and seventy-nine (179) illegal transshipment cases involving goods destined for the U.S. market were established for these visits and these cases are now being investigated and processed through the Hong Kong Court of Law.<sup>5</sup>

In 1997, the names of 28 factories which were convicted of transshipment to the United States were published by the U.S. Customs Service. Obviously, the number will grow as the factories found to be illegally transshipping continue to be processed through the Hong Kong Court system.

The Textile Clearinghouse has analyzed the activity of these 28 manufacturers. Based on that analysis, our actions have led to the following results:

- ▶ There has been no activity for 23 of the 28 manufacturers since the convicted factory list was published. The total value of shipments of all published manufacturers decreased by 79 percent or \$5.2 million when comparing August through November 1997, to the same timeframe during 1996.
- ▶ The activity of the largest manufacturer, whose activity accounted for over 24 percent of the list's value, decreased by 91 percent or \$3.7 million in 1997. There have been no imports from this manufacturer since the list was published.
- ▶ The activity of the second largest manufacturer decreased 63 percent or \$2.3 million in 1997. There has been no import activity from this manufacturer since the list was

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<sup>5</sup>These statistics were provided by the Hong Kong Government.

published.

As a result of these convictions, Customs detained more than \$100 million worth of goods from entering the United States to more closely scrutinize production documents. The importers have continued to transact business with the convicted factories and there is an alert at our ports of entry to require a greater level of proof regarding the country of origin.

Throughout 1997, U.S. Customs representatives have maintained a close and cooperative working relationship with their counterparts in Hong Kong Customs and Excise and with the Hong Kong Trade Department. Analysts from both countries are working on joint analytical projects in order to detect, more quickly, instances of illegal textile transshipment.

#### **MACAU INITIATIVE**

Because of continued allegations of illegal textile transshipment involving Macau, on June 5, 1996, U.S. Customs instituted single entry bond requirements and additional information requirements on wearing apparel shipments for targeted categories from Macau. If the textile declaration was not completed or signed by the manufacturer, subcontractor, and any party involved in the manufacture of the goods and certified by the importer, the goods were to be denied entry.

Macau agreed to allow a TPVT to view factory operations. U.S. Customs officers visited factories for 120 days, from July-October 1996 and certified the manufacture of each shipment, in the targeted categories, before export to the United States. As a result of confirming that there was not a great deal of transshipment of the targeted categories during the 120-day period, the single entry bond requirement was removed on the targeted goods being exported from Macau. The U.S. Customs Service is continuing to monitor exports from Macau to evaluate conformity with the bilateral agreement. U.S. Customs is working with the Macau Economic Services (MES), to continue a program of TPVT visits as well as establishing a program of self-policing. The government of Macau has agreed to quarterly meetings with the Senior Customs Representative in Hong Kong on the issue of illegal transshipment. In addition, they have agreed to suspend the issuance of country of origin certificates to those factories which are found to be transshipping. On their own initiative, in 1997, Macau made 71 visits to 36 factories in the targeted categories. Two of these factories have been closed. An additional 26 factories were visited for Category 239 infants' and baby wear. Three of these factories closed and the issuance of the

certificate of origin was suspended for four other factories.

#### **D. PARTNERSHIP WITH INDUSTRY**

In 1997, U.S. Customs established a partnership with the major textile importers and trade associations to maximize compliance with importing requirements regarding the origin of textile and textile products and to support the bilateral textile agreement quota requirements. The partnership approach has provided the trade with the opportunity and ability to continue to work with Customs in order to make significant compliance improvement, with regard to the origin of textiles and textile products.

Both the trade and the Customs Service are focused on solving the root causes of noncompliance. The partnership approach has made the importing community realize that they have a significant role to play in this process. This has elevated Customs matters to the attention of senior management in the importing companies and has resulted in resources being allocated to improve the companies' compliance processes. It is the first time that industry has recognized and responded to the seriousness of the issue of the illegal transshipment of textile and textile products.

Industry, in partnership with the Customs Service, prepared a guide for importers of textile and textile products, which consisted of the "best practices" companies should use in order to avoid dealing in illegal transshipped textiles. Industry has made this guide available to its constituency at a nominal cost in order to encourage companies to either: (1) reevaluate their internal controls to be sure the controls they have and the steps they have instituted ensure that their merchandise is imported from the correct country of origin, or (2) institute strong controls where current controls are either weak or nonexistent.

Using the product of this "best practices" effort, three leading importers of textile and textile products have made major changes to their internal controls and developed compliance systems.

#### **E. INTERNAL CONTROL ASSESSMENTS**

Under Section 484(a) of the Tariff Act of 1930 (19 U.S.C. 1484 [a]), as amended by the Customs Modernization Act, the importer has the legal obligation to exercise reasonable care when filing with Customs such information as is necessary to enable Customs to determine whether to release merchandise. The obligation to use reasonable care also extends to the importer's declarations as to value,

classification and rate of duty of imported merchandise and when filing any other information necessary to enable Customs to assess duties properly, and collect accurate statistics. The importer is responsible for properly describing the imported merchandise, using proper quota categories, showing the correct country of origin, accounting for the proper quantities and declaring the proper values.

The Internal Control Program for the prevention of transshipment was established by the Customs Regulatory Audit Division and began with the need to hold the importers responsible for exercising reasonable care as required by the Modernization Act. Customs believes that an assessment of importers' internal control systems to ensure the correct origin of their merchandise complements the results of textile production verification team reviews of the foreign manufacturers' records at the foreign factory locations.

Teams of import specialists and auditors were formed to conduct these reviews. A specific, detailed audit program was developed and included a questionnaire which was sent to the first group of 17 importers selected to be reviewed. The audit program consists of the following steps:

- ▶ Import specialist selection of various entries from Hong Kong and Macau were based on the specific targeted categories.
- ▶ Importers are advised that they have been selected for an internal control review for the prevention of transshipments. A date for the review is established and the importer is informed that a two-page questionnaire will be mailed and that their responses to that questionnaire will be discussed on the review date.
- ▶ The following documents are reviewed and verified at the importer's premises against specific import transactions: purchase orders, contracts, commercial invoices, factory inspection reports, ratings from the factories, profiles of factories (including capacity and equipment), and payments for the merchandise and its related quota payments.
- ▶ Once the review is completed, weaknesses found during the review are discussed with the importer and include recommendations to improve and strengthen their internal controls.

An initial group of 17 importers was selected for review under this

program, based on the volume of their imports in the target categories from Hong Kong and Macau. The results of these initial 17 internal control assessments are as follows:

- ▶ Seven of the 17 companies had adequate internal controls and were not using known transshippers.
- ▶ Five of the 17 companies had adequate internal controls but were found to be using known transshippers.
- ▶ One company was found to have inadequate internal controls, even though there was no evidence of transactions with known transshippers.
- ▶ Two companies were found to have weak internal controls and a history of being involved in transshipment.
- ▶ Two of the initial 17 reviews are still in process.

Additional internal control reviews of companies whose imports are primarily from Hong Kong and Macau were conducted. The results are as follows:

- ▶ Eight importers were found to have adequate internal control systems.
- ▶ One importer was found to have internal controls, but was conducting business with a supplier who subcontracted to a known transshipper.
- ▶ Two importers were informed that their internal controls needed additional revisions.
- ▶ Nine reviews are still ongoing.

Customs is continuing to work with companies to ensure compliance improvement plans are developed and implemented to address weaknesses identified during these internal control reviews.

#### **F. PRODUCTION VERIFICATION TEAM VISITS**

In 1997 TPVT's visited 11 countries and one insular possession:

Belize	Canada	Guatemala
India	Jamaica	Korea

Mauritius  
Palau

Nepal  
Panama

Northern Marianas Islands (Saipan)  
Portugal

TPVT members also participated in the Hong Kong initiative as observers during visits to 249 Hong Kong factories. (Note Section V, part C, HONG KONG INITIATIVE, for more detailed information.)

Significant results in 1997 of U.S. Customs Service TPVT visits to 324 factories and subcontractors included identifying \$52.6 million in goods transshipped through Canada, El Salvador (visited in December 1996), Guatemala, Honduras (visited in December 1996), Jamaica, Jordan (further developed during Hong Kong observer visits from information from Jordan TPVT visit), Korea, Mauritius, and Panama.

In some instances, information obtained from TPVT's results in the seizure of transshipped merchandise as well as the initiation of investigations. In other instances, TPVT's obtained information which assisted textile negotiations by other agencies to establish quota limitations, thus protecting U.S. industry while permitting industrial development in developing countries. For example, Korea sought additional quota as compensation for the 1996 U.S. change in textile rules of origin. TPVT visits to 59 factories and subcontractors in Korea verified that there were significant discrepancies between the amount of fabric shipped as Korean origin and the amount of fabric the factories actually produced. Korea did not receive any quota compensation.

Sometimes information obtained by a TPVT addresses concerns of domestic industry. For example, domestic industry experts believed that there was no production of shop towels in Nepal. A TPVT visited southern Nepal to verify production and provided information on all producers and exporters which was used to negotiate quotas at the correct level for Nepal.

In other instances, TPVT's resulted in significant decreases in textile imports from countries found by the TPVT's to be major transshipment sites. For example, TPVT's determined that there were firms with no manufacturing capability which were claiming Colon Free Trade Zone origin for their exported goods. These firms were simply relabeling the goods. Since those visits, very few textile exporters have been claiming Panama, Colon Free Trade Zone origin.

The TPVT's have established a cooperative relationship with foreign governments to identify transshipped goods and have provided information to U.S. authorities. Conversely, the TPVT's sometimes provide information to foreign governments which permit them to

initiate investigations and obtain convictions. TPVT's have also provided leads and information which the U.S. uses to initiate foreign investigations.

#### **G. PORT OF ENTRY ACTIVITY**

Policy and regulations relating to the national initiative to prevent transshipment are Headquarters responsibility. However, the entries must be stopped at the ports of entry in order to prevent inadmissible, or potentially inadmissible, textiles and textile products from entering the country after being transshipped. To determine whether the ports are actively responding to the initiative, the port directors responded to surveys to determine the value of seizures, detentions, and exclusions related to the anti-transshipment initiative at their ports for calendar year 1997. The results follow:

	VALUE
Textile Articles Seized Due to Transshipment:	\$ 8,474,528
Textile Articles Detained - Suspected Transshipment:	\$ 59,151,303
Textile Articles Excluded From Entry:	\$ 20,206,615
Textile Articles Reexported:	\$ 892,881
Textile Articles Abandoned by Importer:	\$ 8,312
Textile Articles Subject to Other Enforcement Action:	\$ 20,975,140
Total:	\$109,570,828

#### **H. OFFICE OF INVESTIGATIONS**

During calendar year 1997, the Office of Investigations (OI) has conducted textile-related investigations which have resulted in the following enforcement actions: 29 Arrests, 25 Indictments, 32 Convictions and 35 Penalties.

The following case summaries relate to some of the significant textile enforcement actions conducted by the Office of Investigations during calendar year 1997:

- **Indictments in Customs fraud case:** In January 1997, three subjects were each indicted in the Southern District of Florida on eight counts each of Entry of Goods by Means of False Statements and one count each of Conspiracy, Smuggling and Aiding and Abetting. It is alleged that the subjects conspired to transship illegally Chinese T-shirts, valued at approximately \$8 million, through a subsidiary company in Venezuela and into the United States. The T-shirts were labeled as products of Venezuela, thereby evading applicable quota/visa requirements.

- ▶ **Penalty issued in Customs fraud case:** In March 1997, the Port Director in New York issued a penalty to a company in the amount of \$719,390.88. This penalty was issued pursuant to an investigation which substantiated that the company misdescribed and misclassified shipments of backpacks and quota/visa restrictions. The resulting loss of revenue was \$88,000.
- ▶ **Collection in Customs fraud case:** On May 30, 1997, a company submitted a tender in the amount of \$265,886.60 to the Newark, New Jersey Port Director. This tender represented the final payment made to satisfy duties owed Customs, which resulted from the importer's fraudulent undervaluation of quota-sensitive wearing apparel from China. Investigation established that the company illegally transshipped, undervalued and falsely classified 40 shipments of textile products imported into the U.S. The total duty and interest collected as a result of this investigation is in excess of \$1.5 million.
- ▶ **Seizure in Customs fraud case:** In June 1997, agents executed a federal search warrant at a business premise. Seized pursuant to the warrant were 1,608 Chinese manufactured fur, leather and cashmere coats, valued at approximately \$2 million. The investigation disclosed that the company removed Chinese country of origin markings from shipments of imported textile coats, attempting to circumvent quota/visa restrictions.
- ▶ **Conviction in Customs fraud case:** In July 1997, a subject entered a guilty plea to a two-count indictment charging the smuggling of two shipments of Chinese manufactured textile products through the Foreign Trade Zone in Los Angeles, California. The investigation disclosed that the subject (a Mexican National), and others, conspired to smuggle and manipulate numerous imported shipments of Chinese manufactured textile items and wearing apparel through the Foreign Trade Zone. It is estimated that the subject caused a loss of revenue to the United States of at least \$900,000.
- ▶ **Execution of search warrant and seizures in Customs fraud case:** In August 1997, agents executed a search federal warrant on a company located within the Miami Foreign Trade Zone. Seized pursuant to the warrant were two 40-foot and one 20-foot shipping containers of fabric imported from the Far East. It is alleged that the subject company was



involved in a large scale scheme to avoid visa/quota restrictions and Customs duties on Korean and Taiwanese manufactured fabric. The fabric was purported to be exported out of the United States, when in fact it was substituted with domestic fabric and diverted to co-conspirator companies located in the New York City area.

In addition, the Office of Investigations works in partnership with the World Customs Organization (WCO). The role of the Office of Investigations is to ensure that U.S. enforcement initiatives were introduced and advanced. OI has introduced a multitude of enforcement initiatives including textile transshipment and movement of merchandise in transit. Accomplishments include:

- ▶ Prepared written documents on detecting and investigating transshipment and transit frauds.
- ▶ Directed the work of representatives from other Customs Administrations and together implemented chapters for inclusion in the WCO's working textbook on combating commercial fraud.
- ▶ Implemented proposals that member nations work together to establish multinational program exercises for the purpose of combating textile transshipment and transit fraud.
- ▶ Directed and participated in several transshipment fraud control technical assistance missions to such members as Jamaica.
- ▶ Directed and participated in several transshipment fraud control technical assistance missions in Jamaica.

## **I. LINKS WITH INTELLIGENCE COMMUNITIES**

An extensive outreach is ongoing with the Intelligence Community to raise the level of support on Customs trade priorities. Information is being developed from open and classified sources to identify Chinese manufacturers, the countries and companies used for transshipment and a description of the wearing apparel that is evading quota. The intelligence has proven to be timely and actionable. Partnerships have also been established with other Customs Services confronted with the challenge of illegal transshipment. There has been a full exchange of information with HM Customs and Excise, Revenue Canada, Australia Customs and the Fraud Division of the European Union. Targets, risk assessments and production verification

reports are routinely shared in order to identify shifts and displacement of transshipment activity.

#### **J. 592A LIST OF FOREIGN ENTITIES**

Section 333 of the Uruguay Round Agreements Act added section 592a to the Tariff Act of 1930 (19 U.S.C. 1592a) to authorize the Secretary of the Treasury to publish in the Federal Register biannually a list of names identifying any producers, manufacturers, suppliers, sellers, exporters or other persons located outside the Customs territory of the United States that have been issued a penalty under Section 592 of the Tariff Act. The violations of Customs law that would lead to publication in the Federal Register are enumerated in the notice which is published twice a year (i.e., not later than March 31 and September 30 each year).

The Federal Register notice contains the list of foreign entities which have been assessed a penalty under 19 U.S.C. 1592. A list of additional foreign entities, which are alleged to have had violations and for which Customs is soliciting correct and current information, is published at the same time each year.

The Textile Clearinghouse has analyzed the activity of the foreign entities whose names are published and based on that analysis it appears that publication is having a positive impact. For the foreign entities having been assessed a 19 U.S.C. 1592 penalty the results are as follows:

- ▶ There has been no import activity for 6 of the 13 manufacturers whose names have appeared on the list since its first publication in September 1995. These numbers do not include the eight Chinese entities identified with counterfeit visa activity.
- ▶ The activity of the remaining seven manufacturers represents an overall increase of 13 percent or \$3.5 million when comparing 1995 to 1996. When comparing 1996 to 1997 the trend reversed with a decrease of 49 percent or \$14 million.
- ▶ Decreases over the 2 year period ran from a low of \$129,000 to a high of \$9 million for one manufacturer, whose activity has accounted for an average of 80 percent of the list's value.
- ▶ There were two manufacturers who experienced increases in

the 2 year period. However, the increases, which were \$83,000 and \$408,000, were minimal when compared to the \$10.9 million total decrease for that same period.

For the entities for which current and correct information is being solicited by Customs the results are:

- ▶ Of the 51 manufacturers appearing on the list, 40 have shown no activity since 1995.
- ▶ The remaining 11 manufacturers have seen an overall decrease of 32 percent or \$58.7 million when comparing 1995 with 1996. When comparing 1995 with 1997 there is an even larger decrease of 43 percent or \$78.8 million.
- ▶ The activity of one of the entities published, which represented 80 percent or \$145.8 million of the total value for all entities published in 1995, has decreased 50 percent to \$72.7 million in 1997.
- ▶ The activity of five entities increased from 1996 to 1997. The amount of the increases ranged from \$2,324 to \$2 million. However, the overall activity for all entities published during this same period decreased by over \$20 million.

#### **K. BOND SUFFICIENCY**

Effective July 1, 1997, the bond sufficiency requirements were changed after a review of textile and textile product imports. Customs reviewed the bond sufficiency of approximately 12,000 importers of cotton, wool and man-made fiber textile and textile products subject to textile restraints, who imported textiles and textile products valued at over \$100,000. Based on this review, a minimum bond requirement was established for all companies importing textile and textile products to 2 percent of the value of their world-wide importations of textile and textile products for the previous year, or their current bond, whichever is higher. The bond coverage will not exceed \$30 million or fall below \$50 thousand for an annual period. The annual period is based on activity from January-December in the previous calendar year. The requirement will be reviewed every April to ensure the appropriate level of risk coverage.

If a company has been found to be a high risk for transshipment, port directors have the discretion to increase the required bond coverage in increments from 1 to 3 percent, to be added to the current 2

percent of the value of the company's annual importations of textile and textile products. In instances of repeated violations and noncompliance, U.S. Customs may require single entry bonds for all entries of all textile and textile products until satisfactory compliance is reached.

#### **L. ELECTRONIC VISA INFORMATION SYSTEM**

As of December 31, 1997, nine countries are participating in the Electronic Visa Information System (ELVIS). They are China, Indonesia, Malaysia, the Philippines, Singapore, South Korea, Singapore, Taiwan and Thailand. Textile visas issued by the foreign governments are transmitted electronically to the United States using the ELVIS program and are verified by U.S. Customs ports of entry before the textiles or textile products covered by the visa are released into the commerce. Suspect counterfeit visas identified through ELVIS are manually verified through the foreign government, and if confirmed as false (rather than a clerical or input error), the goods are not permitted into the commerce of the United States.

ELVIS has been extremely effective in reducing counterfeit visas:

- ▶ China decreased from a high of over 5,300 to six counterfeit visas in 1997 (merchandise on all six visas was prevented from entering the commerce).
- ▶ In 1996 when ELVIS was shut down for a short time, 54 counterfeit visas were fraudulently used by one shipper to enter wearing apparel into the United States.
- ▶ Although U.S. Customs identified 165 Malaysian counterfeit visas in 1996, that number was reduced to 15 in 1997 and the goods were not permitted into the commerce because the fraudulent documents had been identified by ELVIS prior to release of the goods.
- ▶ Indonesia, which recently began using ELVIS, had seven counterfeit visas identified and the goods did not enter the commerce.
- ▶ Thailand, recently began to participate in ELVIS. Therefore, its duplicate visa problem which was \$18.5 million at one time should be reduced to zero.

#### **M. TRANSSHIPMENT TRAINING**

In an effort to combat illegal textile transshipment the United States Customs Service has provided training to the following countries in 1997:

Bangladesh	Guatemala	Indonesia
Mauritius	Nepal	Philippines
Singapore	Taiwan	Thailand

The training is given to foreign Customs officers, Government officials involved in the issuance of visas, and/or free trade zone operators. During the training, U.S. Customs officers discuss the different types of transshipment, the reasons for transshipment, methodologies used by transshippers, how to discover transshipment, what to do when transshipment is discovered and documenting transshipment. The training officers also provide the names, telephone numbers and fax numbers of several people in the U.S Customs Service to contact regarding transshipment. During 1997, members of the TPVT's have also provided in-depth training to 13 U.S. ports of entry.